Will Your Business Outlive You—And Should It?

Planning is the Key to Ownership Transfer

Many contractors avoid planning for the transfer of ownership and management of their businesses. Facing the issue of ownership transfer and management succession means admitting that life will not continue in its present productive state. That's a frightening and intimidating issue for everyone. There are a myriad of obstacles that cause contractors to procrastinate and avoid the decisions that have to be made—expected family reactions, ego, financial considerations, time pressures from day-to-day living, etc. But, once a businessperson is ready to do something, the real question becomes what to do first.

Most businesspeople assume that the first step is to become thoroughly familiar with all the tax, legal and accounting issues affecting the transfer of ownership. Often, they spend a great deal of time consulting their attorneys, their accountants, and their insurance advisors. Then, they may spend even more time consulting someone else's attorney, accountant and insurance advisor. And, as a result, they find themselves trying to absorb and sort out a morass of confusing and often conflicting facts about the techniques of transferring ownership. The key word here is “how.” Most people tend to concentrate on “how” to do it rather than “what” they want to accomplish.

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A buy-sell agreement is a necessity whenever there is more than one shareholder. Each shareholder needs protection for equity invested in the company, and the company itself needs protection as to who will own shares. What events will trigger a buyout under the agreement? Will the buyout be mandatory or will it be optional? What will the price be? Or, alternatively, how will the price be determined? How will payments be made? If you want to ensure a successful working relationship among future shareholders, try to make sure the agreement is properly drafted.

5. When will you retire? Will you ever retire completely?
You do not necessarily have to get out of your company, but you do have to get out of command. And, you should select a time when you are going to relinquish that command . . . and stick to your decision. At the same time, you may want to redefine your role in the firm to do those things you enjoy and are good at. You will probably continue to make a substantial contribution to the health and prosperity of your company.

6. Who will be the next president? When will that person assume control?
If your business is going to continue, someone has to run it after you’re gone. If there is no heir apparent in your company, where will you find someone? Often, keeping good people is tough if they think the old man will never let go. If you designate an heir apparent, it will often breathe life into an otherwise stagnant organization.

7. How can you treat your children equally?
You cannot treat your children equally and expect success. You can only treat them fairly and equitably. If all of your children are equally talented and wish to be equally involved in your business, then you are indeed lucky. Most contractors, however, have to handle ownership issues for children in the business and children who are uninvolved. This area of decision-making is difficult for most people, but the questions must be answered before any intelligent planning can be done.

8. How much money do you need out of the business?
When you consider your lifestyle and your personal asset base, how
much salary, bonus, fringes and value for stock do you need? This question has a large bearing on the techniques you use to accomplish your objectives. Can you afford to give the business to your kids, or must you sell for top dollar to continue your lifestyle?

9. How long are you prepared to personally indemnify the credit of the firm?

Most contractors personally guarantee bonding and bank credit enjoyed by the company. When do you want to stop doing that? What if the company cannot get a bond without your signature? Your bonding company and your bank must be consulted in the planning process.

10. What if the proverbial “red truck” gets you?

What will happen to your company if you die unexpectedly or become permanently disabled? You need a specific plan of action that has been widely communicated to those who would be affected-family and employees.

By answering these 10 questions, you will build a blueprint for the future. You will answer the questions “what,” “when,” and “who.” The next step is to implement your vision.

Select one outside advisor who has the assigned mission of implementing your plan. The advisor’s responsibility should include getting input from all your other advisors and presenting you with several alternatives. Resist the temptation to get information from numerous outside sources yourself. You will only find yourself creating and becoming the victim of confusion.

Do your homework first. Define the result you want. Select a competent, knowledgeable expert to advise you about how to implement your plan. You can successfully plan for the continuation of your company, but you must do it in the proper sequence.